

IN THE COURT OF JUDICIAL MAGISTRATE

FIRST CLASS,

GOHPUR, SONITPUR

PRC Case No. 98/20

**Under Sections 294, 324 read with Section 34,
Indian Penal Code**

STATE OF ASSAM

.....**PROSECUTION**

-VERSUS-

1. Ms. KALPANA GOWALA

W/O Mr. KIRAN GOWALA

2. Ms. PALLABI GOWALA

D/O Mr. KIRAN GOWALA

BOTH ARE RESIDENTS OF:

VILL- DHENUDHARA,

P.S- GOHPUR

DIST.- BISWANATH

.....**ACCUSED PERSONS**

PRESENT: Mr. RAJ SEKHAR DUARA, JUDICIAL MAGISTRATE
FIRST CLASS, GOHPUR

ADVOCATE FOR THE PROSECUTION: Ms. SANTANA
BHUYAN, A.P.P
ADVOCATE FOR THE ACCUSED : Ms. RIYA
KONWAR

CHARGE FRAMED ON: 04.03.21
EVIDENCE RECORDED ON: 22.12.21
ARGUMENTS HEARD ON: 22.12.21
JUDGMENT DELIVERED ON: 05.01.22

JUDGMENT

FACTUAL SCENARIO

1. The Prosecution's case can be surmised as: one Ms. Mamoni Borah Saikia had lodged an F.I.R. dated 23.04.2020 before the officer-in-charge of the Gohpur Police station alleging inter alia that on 23.04.2020 at around 11:30 a.m., when she was distributing ration at Dhenudhara in view of the lockdown that was imposed at that point in time, the accused persons for no reason first hurled profanities at her and then proceeded to attack her with a rod and gave blows

to her head which left her with grievous injuries. Hence, this case.

INVESTIGATION BY POLICE AND CHARGESHEET

2. On receipt of the F.I.R., Officer- in- charge of Gohpur P.S registered it on 23.04.2020 as Gohpur P.S. No. 147/20 under Sections 294, 325 read with Section 34, I.P.C. and initiated investigation into the matter. On completion of such investigation, the police submitted charge-sheet against the accused persons, Ms. Kalpana Gowala and Ms. Pallabi Gowala under Sections 294, 325 read with Section 34 of the Indian Penal Code.

APPEARANCE OF THE ACCUSED AND TRIAL

3. In due course, the accused persons entered their appearance in response to the process issued. Copies of the relevant documents stipulated under section 207, Cr.PC were furnished to them. Subsequently, formal charge under Sections 294, 324 read with Section 34 of the Indian Penal Code was framed and its particulars were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

4. During trial, in support of their case, the prosecution examined 1 (one) witness and exhibited 1 (one) document after which prosecution submitted for closure of its evidence

and accordingly, evidence for prosecution was closed. Since the aforementioned witness did not bring forth any incriminating materials against the accused persons in her deposition, the statements of the accused persons as mandated by Section 313, Criminal Procedure Code were dispensed with due to lack of sufficient materials. Defense did not adduce any evidence.

POINTS FOR DETERMINATION

5. Upon hearing both the parties and on perusal of the case record, the following points for determination have been formulated by this court to arrive at a definite finding.

- i. **Whether the accused persons, on or about the 23rd day of April, 2020 at 11:30 a.m. at Dhenudhara, in furtherance of common intention, voluntarily caused hurt to the informant with a dangerous weapon and thereby committed an offence punishable under Section 324 read with Section 34, I.P.C.?**
- ii. **Whether the accused persons on or about the same, date and place, in furtherance of common intention, hurled profanities and other obscene words at the informant in and**

around a public place and thereby committed an offence punishable under Section 294 read with Section 34, I.P.C.?

6. I have heard the learned counsels for both sides and have gone through the evidence on record which has been outlined below.

EVIDENCE

7. P.W.1, Ms. Mamoni Saikia, the informant, has deposed in her examination-in-chief that she had lodged the F.I.R. which is Exhibit-1 and her signature over the same is Exhibit 1(1). She deposed in her testimony that the incident had happened in the afternoon of 23.04.2020 in front of the house of Ms. Kalpana Gowala at Dhenudhara. She states that they had a misunderstanding regarding certain procedure involved with the COVID- 19 protocol. She states that the instant F.I.R. was filed out of anger caused by such misunderstanding with the two accused persons. She adds that they have amicably resolved their differences at present and that no such incident as was originally alleged, had happened. She lastly expressed her desire that she wants to put an end to the proceedings of this case and that she has no objection if the accused persons are acquitted from this case.

DISCUSSION, DECISION AND REASONS THEREOF

8. After a thorough deliberation upon the evidence of the witness and all other materials available on record, it transpires that there are no incriminating materials to constitute an offence which is punishable under Sections 294, 324 read with Section 34 of the Indian Penal Code. It is also imperative to acknowledge that the prime witness, who is the victim himself, stated nothing incriminatory against the accused persons. Furthermore, it is pertinent to assert that the prosecution has failed in establishing the guilt of the accused persons beyond reasonable doubt which is the standard of proof in every criminal proceeding. In light of the same and after careful consideration of all the materials on record, the accused persons are found not guilty for the aforesaid offences. Situated thus, the accused persons, Ms. Kalpana Gowala and Ms. Pallabi Gowala are hereby **acquitted** from this case and set at liberty forthwith.

9. The bail bonds of the accused persons and their sureties shall remain in force for a period of 6 months from today in compliance with Section 437 (A), Criminal Procedure Code.

10. The Case accordingly stands disposed of.

11. The judgment is pronounced in open court in presence of the counsel for the accused persons and given under my hand and seal of this court on this 5th day of January, 2022 at Gohpur.

Typed by me

(Raj Sekhar Duara)
Judicial Magistrate First Class,
Gohpur, Sonitpur

SONITPUR DISTRICT JUDICIARY

APPENDIX

PROSECUTION EXHIBIT:

Exhibit 1: FIR dated 23.04.2020

DEFENCE EXHIBIT: NONE

PROSECUTION WITNESS:

P.W.1- Ms. Mamoni Saikia

DEFENCE WITNESS: NONE

(Raj Sekhar Duara)
Judicial Magistrate First Class,
Gohpur, Sonitpur